IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA

Bennie D. Mitchell, # 278318)	C/A No. 0-06-2729-CMC-BM
)	
Petitioner,)	OPINION AND ORDER
)	
v.)	
)	
Warden Raymond Reed, Jr.,)	
Henry Dargan McMaster,)	
Attorney General of South Carolina,)	
)	
Respondents.)	
)	

Petitioner, a former state inmate¹ proceeding *pro se*, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 on September 28, 2006. Respondents filed a motion for summary judgment on February 8, 2007. By order filed February 9, 2007, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), Petitioner was advised of the summary judgment procedure and the possible consequences if he failed to adequately respond to the motion. However, despite this specific notice and warning, and despite Petitioner having been granted an extension of time to respond, Petitioner has failed to file any response.

In accordance with this court's order of reference and 28 U.S.C. § 636(b), this matter comes before the court with the Report and Recommendation of United States Magistrate Judge Bristow Marchant.

The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b). The court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d

¹Petitioner was released from prison while this petition was pending.

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310 (4th Cir. 2005) stating that "in the absence of a timely filed objection, a district court need not

conduct de novo review, but instead must 'only satisfy itself that there is no clear error on the face of

the record in order to accept the recommendation." (quoting Fed. R. Civ. P. 72 advisory committee's

note).

Based on his review of the record, the Magistrate Judge has recommended that Respondents'

motion for summary judgment be granted, and that this federal Petition be dismissed, with prejudice.

The Magistrate Judge advised Petitioner of his right to file objections to the Report and the serious

consequences if he failed to do so. Petitioner has filed no objections and the time for doing so has

expired.

After reviewing the Petition, the motion, the record, the applicable law, and the Report and

Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the Report and

Recommendation of the Magistrate Judge is adopted and incorporated by reference. Therefore, it is

ORDERED that Respondents' motion for summary judgment is **GRANTED** and this action

is dismissed with prejudice.

IT IS SO ORDERED.

s/ Cameron McGowan Currie

CAMERON MCGOWAN CURRIE

UNITED STATES DISTRICT JUDGE

Columbia, South Carolina August 21, 2007

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